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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,084	04/09/2001	Daniel R. Joseph	0291MH-34638	7420

7590 08/19/2004  
HILL & HUNN, LLP  
Suite 1440  
201 Main Street  
Fort Worth, TX 76102

EXAMINER
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DEL SOLE, JOSEPH S

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 08/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/829,084	JOSEPH, DANIEL R.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joseph S. Del Sole	1722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2004 and 19 July 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 6-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to because: **a)** the character of lines, numbers and letters are not uniform, clean or well defined in Figures 5, 23, 29 and 37-53; **b)** solid black shading is not permitted as done in Figures 45-53; **c)** the characters used in Figure 24 must be at least .32 cm in height; and **d)** references numeral 801 and 803 are used in figure 40 and in figures 32-35 to represent different structures respectively. The Examiner further notes that numerous reference numerals, particularly between numbers 800 and 900 are improperly used to represent differing structures. The breadth of the errors limits the Examiner's ability to accurately point out each occurrence, however each such occurrence should be corrected to removed multiplicity. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the

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drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

2. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

3. The abstract of the disclosure is objected to because **a)** the abstract should include a summary of the sizing cage subsystem. Correction is required. See MPEP § 608.01(b).
4. The disclosure is objected to because of the following informalities: **a)** the title currently refers to both a method and an apparatus, but since only an apparatus is claimed the title should be amended to reflect this; and **b)** reference numeral 801 is

used do describe both a frost line (page 78, line 6) and a lay flat sensor (page 102, line 8); and **c)** reference numeral 803 is used to describe both an air ring blower (page 80, line 20) and a lay flat sensor (page 102, line 8). The Examiner notes (as discussed above in the drawing section) that numerous reference numerals are used for different structures and although the Examiner has not distinctly point out each error, the entire specification must be corrected to remove improper multiple uses of reference numerals.

Appropriate correction is required.

#### ***Claim Objections***

5. Claim 7 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 7 fails to describe the two modes of operation in such a way to structurally differentiate the cage position control routine from that which is claimed in claims 1 and 6.

6. Claim 1 is objected to because of the following informalities: **a)** "exhaust control signals to said exhaust blower" at line 15 of claim 1 should be changed to -- exhaust control signals to said exhaust blower; -- (add the semi-colon) to better separate this limitation from limitation "(c)" that follows. Appropriate correction is required.

7. Claims 2-3 and 6-8 and 10 are objected to because of the following informalities: **a)** the improper status identifiers were used with the claims. When a claim is amended, the status identifier should be "currently amended" this was done correctly for claims 1

and 9. When a claim is submitted unchanged from its original presentation, and the claim existed with the original filing, the claim should be identified as "original". No such "original" claims exist in this application. Since claims 2-3, 6-8 and 10 were added after the original filing, they should be identified as "previously presented" because they are unchanged from their previous presentation, but they are not original. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 1-3 and 6-10 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 recites the limitation that the "controller member including executable program instructions... by directing a series of supply control signals to said supply blower and/or exhaust control signals to said exhaust blower" also includes executable program instructions for a cage position control routine. However, the original specification does not describe a single controller for the two (blower and sizing cage) systems, furthermore the specification does not discuss "executable program instructions" for cage position control.

Claim 2 recites that a pair of non-contact sensors on opposite side of the sizing cage subsystem are used to move the sizing cage inward and outward. This is new matter because the non-contact sensor for measuring sensor-to-tube distance and moving the sizing cage is sensor 817 (Figure 40), of which there is only one (it is connected to 819 for control of the cage). Alternatively, this sensor is also shown as the single sensor 89 in Figure 3.

Claims 6 and 7 recite the limitation "predetermined set point", however such as set point was not discussed in the original specification.

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 6, 7 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 6 and 7 are vague and indefinite because it is unclear what set point is responded to by the limitation "predetermined set point".

Claim 7 is vague and indefinite because it is unclear what distances from a predetermined set point are necessary to differentiate a mode of operation from being forecast or contact.

Claim 10 is vague and indefinite because it fails to clearly describe how the lay flat control system adjusts a finished product diameter. The limitation "control signals are supplied to said controller by said cage position control routine to said layflat control system" is unclear because it is unclear what is going "to said layflat control system".

As the limitation reads, the cage position control routine supplies control signals to the controller. The function of the layflat control system is unspecified. Furthermore, it is unclear what measurements are inaccurate in the limitation "which are inaccurate measurements". Lastly, it is unclear how the layflat control system predominantly controls the sizing cage subsystem; there is no structural recitation set forth for this ability.

***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1-3 and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Joseph (5,525,277).

Joseph teaches a blown film apparatus, that corresponds to the instant apparatus, which includes an annular die 705 for extruding a film as a tube, means for pulling the tube along a predetermined path, and an apparatus for startup of the extruded film tube including means for varying a quantity of air within the extruded film tube, including a supply blower 729 which supplies air to the extruded film tube in an amount corresponding to a supply control signal, and an exhaust blower 749 which exhausts air from the extruded film tube in an amount corresponding to an exhaust control signal, and a control member 753 including executable program instructions which define at least one control routine for automatic and coordinated control of the



means for varying during starting of the extruded film tube by directing a series of supply control signals to the supply blower and exhaust control signals to the exhaust blower (col 14, line 3 - col 15, line 53 and col 21, line 3 to col 22, line 35). Joseph teaches a sizing cage subsystem (Fig 4, #23) surrounding the extruded film tube and including an electrically-actuable controllable actuator for moving the sizing cage inward and outward (col 7, lines 15-35) relative to the extruded film tube; at least one non-contact sensor (Fig 4, #89) for measuring a sensor-to-tube distance; wherein the executable program instructions include a cage position control routine which utilizes the sensor-to-tube distance to calculate a location of the sizing cage subsystem (col 6, line 44 - col 7, line 2); the at least one non-contact sensor includes a pair of non-contact sensors located on opposite sides of the sizing cage subsystem (col 6, line 54); the at least one non-contact sensor is an acoustic sensor (Figure 7A); a cage position routine which utilizes the actuator to reposition the sizing cage in response to a predetermined set point through a series of steps (col 6, line 44 - col 7, line 2); and during operation a user is permitted to introduce values to move the sizing cage (col 18, lines 25-45).

### ***Response to Arguments***

14. Applicant's arguments filed 4/1/04 and have been fully considered but they are not persuasive.

The Applicant argues that claim 2 does not contain new matter as shown in Figure 40 and the related text.

The Examiner disagrees. As discussed above, the sensor claimed relates to the sensor 817 of Figure 40. There is only one sensor 817 and this sensor does not

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comprise "a pair of non-contact sensors located on opposite sides of said sizing cage subsystem".

### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Joseph S. Del Sole whose telephone number is (571) 272-1130. The examiner can normally be reached on Monday through Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wanda Walker, can be reached at (571) 272-1151. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for both non-after finals and for after finals.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from the either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 886-217-9197 (toll-free).

*Joseph S del sole*

J.S.D.

August 18, 2004